

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In re Application of

NO. TS-180677

BACKCOUNTRY TRAVELS LLC

REBUTTAL TESTIMONY OF COLTER
C. COURTNEY, MANAGING
MEMBER OF BACKCOUNTRY
TRAVELS, LLC

For a Certificate of Public Convenience
and Necessity to Operate Vessels in
Furnishing Passenger Ferry Service

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I. INTRODUCTION

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3 **1. Q: Please state your name and business mailing address.**

4 **A:** My name is Colter C. Courtney. My business mailing address is PO Box
5 308, Stehekin, WA 98852.
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7 **2. Q: By whom are you employed and in what capacity?**

8 **A:** I am the managing member of Backcountry Travels, LLC (“Backcountry”).

9 **3. Q: The How does your experience directly apply to the issues before the**
10 **Washington Utilities and Transportation Commission?**

11 **A:** My years of experience operating tourism focused businesses in the
12 Stehekin and Lake Chelan areas applies to many of the issues before the Commission
13 today. For example, my ability to operate a tourism focused business in Stehekin shows
14 that I have the necessary experience to successfully operate a commercial ferry business
15 that serves Stehekin. Further, my experience operating tourism focused businesses in the
16 Stehekin area has provided me with a unique perspective and insight into the best practices
17 to satisfy the needs of the general public, Stehekin residents and businesses located in and
18 around Lake Chelan.
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20 **II. SUMMARY OF TESTIMONY**

21 **4. Q: What is the purpose of your rebuttal testimony?**

22 **A:** The purpose of my rebuttal testimony is to respond to the contents of the
23 testimony submitted by Greg Hammond and Mike Dotson of the UTC Staff and
24 demonstrate to the Commission that Backcountry’s Commercial Ferry Application should
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2 be granted in full. Since the Staff testimony and public comments received by the
3 Commission were overwhelmingly supportive of the application, my rebuttal testimony
4 will also provide additional information that may assist the Commission in making its final
5 decision.

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7 **5. Q: Please summarize the testimony you will be giving today?**

8 **A:** I will respond to the testimony submitted by Greg Hammond, a regulatory
9 analyst on the UTC Staff, and Mike Dotson, a transportation specialist on the UTC Staff. I
10 plan to address Staff's statements recommending approval of Backcountry's application,
11 Backcountry's experience relative to the operation of a commercial ferry service on Lake
12 Chelan, its safety plan and its maintenance plans. I will also address the contention made
13 in three of the public comments received asserting that Backcountry has not demonstrated
14 its financial fitness, that Lake Chelan Recreation, Inc. ("LCRI") is currently providing
15 adequate service to the public and that the public convenience and necessity does not
16 require two providers.
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18 **III. BACKCOUNTRY TRAVELS IS FIT TO OPERATE**
19 **ITS PROPOSED FERRY SERVICE**

20 **A. Colter Courtney's Response to Gregg Hammond's Testimony**

21 **6. Q: After reading Gregg Hammond's testimony and the public comments**
22 **received by the Commission regarding Backcountry's fitness to operate a ferry**
23 **service, do you have any general comments you would like to make?**
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A: Yes, I do. First, Mr. Hammond has concluded that Backcountry Travels has the financial resources to operate the proposed ferry service for at least 12 months. Exhibit GH-1T, 3:9-3:12. Mr. Hammond testified that Backcountry has sufficient assets on hand, an accurate revenue projection and accurate operating costs projection to conclude that it can operate the proposed ferry service.

7. Q: In addition to your general comments, do you have any specific comments regarding Mr. Hammond’s testimony?

A: Yes, I do. In his testimony, Mr. Hammond also responded to public comments received by LCRI’s current owner, Jack Raines.¹ In this portion of his testimony, Mr. Hammond indicated the concerns expressed by LCRI over Backcountry’s revenue projections, which did not account for discounts, were not problematic because the projected revenue lost from discounts on commuter passes and children was .38% and therefore not material to the financial fitness analysis. Exhibit GH-1T, 5:1-10. After reading Mr. Hammond’s testimony, it is clear to me that the Utilities and Transportation Commission has conducted a thorough review of Backcountry’s financial information and concluded that Backcountry is financially fit to operate on Lake Chelan.

8. Q: Are there any areas of Mr. Hammond’s testimony that are incorrect, misleading or require further explanation?

¹ In or about late January, 2019, Mr. Raines publicly announced that he had entered into an agreement to sell his interest in LCRI.

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A: Mr. Hammond’s testimony was accurate and fair. However, Mr. Hammond indicated that he was not aware of Backcountry’s experience relevant to the operation of a commercial ferry and that he was not aware of the details of Backcountry’s maintenance plans for the vessel. GH-1T, 5:11-6:2, 6:10-16. I would like to respond to those statements to ensure that the Commission has all of the information it requires to make its decision.

9. Q: With respect to Backcountry’s experience in this industry, can you explain Backcountry’s efforts to accommodate for its admitted lack of direct experience?

A: Yes, I have two points that I believe will assist the Commission in its decision. First, Mr. Hammond testified that LCRI questioned whether Backcountry would be able to find a captain with experience at an hourly rate in the range of \$25 dollars per hour. GH-1T, 5:11-12. Second, Mr. Hammond testified that Backcountry’s experience may have an impact on the Commission’s decision. GH-1T, 6:10-16.

Backcountry has contracted with Logan Courtney to serve as our captain for the first year of service. He will also serve as our Operations Manager for two years. Logan has extensive experience on Lake Chelan. He spent six years as a deckhand and two years as a captain for Mountain Barge Services. Logan also has experience scuba diving in Lake Chelan and has extensive experience maintaining vessels that operate on Lake Chelan. Logan has a current L&I Boat Operator License that allows him to legally operate this vessel. Considering his extensive and broad experience in the maritime industry specific to

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Lake Chelan, Backcountry is confident that Logan will provide an excellent foundation for the long term success of our ferry service.

Contentions that Backcountry lacks the business experience necessary to successfully operate the ferry service is mistaken. While it is true that Backcountry is a new company and has never operated a commercial ferry, I have had extensive experience working for, operating and managing successful tourism focused businesses in the Stehekin area.

10. Q: Can you explain Backcountry’s safety and maintenance plans for the vessel?

A: As stated above, Logan Courtney has extensive experience maintaining vessels used on Lake Chelan and as Backcountry’s Operations Manager, Logan will bring his experience to Backcountry to ensure our vessel meets the most rigorous safety and maintenance standards. Backcountry is committed to meeting or exceeding the vessel standards set forth by L&I and the Commission, which guarantee a rigorous maintenance schedule to help prevent mechanical issues. For instance, Backcountry’s vessel is equipped with modern sensors that will allow us to identify potential problems before they turn into real problems. Similarly, Backcountry intends on instituting a comprehensive preventative maintenance program that will ensure the vessel remains in top condition.

11. Q: Does the design and engineering of Backcountry’s vessel provide any advantages for safety and/or maintenance that the Commission should consider when comparing your vessel with a traditional ferry vessel?

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2 **A:** Yes, Backcountry’s vessel is a fifty foot catamaran designed and engineered
3 for the sole purpose of serving as a commercial passenger ferry on Lake Chelan. As such,
4 we worked with our builder to include features that will make our vessel safer and easier
5 to maintain when compared to standard ferry vessels. Many of the concerns asserted by
6 LCRI’s current owner, Mr. Raines, in his public comments fail to consider that the
7 purposeful design of Backcountry’s vessel, with an eye toward maximizing efficiency and
8 minimizing maintenance, are vastly enhanced when compared to the older vessels used by
9 LCRI. For example, Backcountry’s vessel has two engines that operate independently of
10 one another. Each engine is on a separate system and has its own fuel tank and filters.
11 Having two engines that are capable of independent operation drastically reduces the
12 likelihood of the vessel being completely disabled and unable to maneuver itself and
13 passengers out of harm’s way. Proper planning, in conjunction with a strict and detailed
14 maintenance program, will significantly increase the reliability of our ferry service and will
15 substantially reduce the risk of tragedy while keeping passenger safety as our top priority.

18 **B. Colter Courtney’s Response to Mike Dotson’s Testimony**

19 **12. Q:** **After reading Mike Dotson’s testimony and the public comments**
20 **received by the Commission regarding Backcountry’s application, do you have any**
21 **general comments you would like to make?**

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23 **A:** Yes, I do. Mr. Dotson, testifying on behalf of the Commission’s Staff,
24 concluded that the public convenience and necessity require approval of Backcountry’s
25 application for a certificate. Exhibit MD-1T, 8:1-3. Mr. Dotson testified that the

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2 Commission received more public comments in favor of Backcountry's application than
3 he has ever seen for any transportation application. Exhibit MD-1T, 3:4-10. Specifically,
4 out of the 227 public comments received, 224 were submitted in support of Backcountry
5 and only three public comments opposed. Exhibit MD-1T, 3:7-10.

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7 I believe that the outpouring of support from the Stehekin community and so many
8 of our recreational visitors is an incredible demonstration of the support for Backcountry's
9 proposed ferry service. When it comes right down to the brass tax, in a small community
10 as tight knit as we are in Stehekin, the fate of Backcountry's ferry service lies in the hands
11 of the community and we are highly encouraged with the public support demonstrated by
12 the massive amount of public comments submitted to support our application.

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14 **13. In addition to your general comments, do you have any specific comments**
15 **regarding Mr. Dotson's testimony?**

16 A: Yes, I do. In his testimony, Mr. Dotson included summaries of the public
17 comments received including common themes of support, common themes with respect to
18 the inadequacy of the current ferry schedule and other common themes in the public
19 comments. With respect to the common reasons stated in support of the application, Mr.
20 Dotson testified that the public support was based upon the vastly improved convenience
21 promised by Backcountry's proposed schedule of making one round-trip per day. Exhibit
22 MD-1T, 3:18-22, 4:1-5. I would like to add that one of the single most significant reasons
23 Backcountry believes it will succeed is because Backcountry intends on providing a daily
24 service that will immediately and forever improve the community of Stehekin. From my
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2 perspective as a life-long resident of Stehekin, Backcountry's daily service will provide the
3 infrastructure that is necessary for our community to flourish.

4 I also believe that the public comments as summarized by Mr. Dotson succinctly
5 demonstrate that LCRI is underserving its territory. Mr. Dotson testified that current
6 residents and non-residents believe LCRI's current ferry schedule is inadequate and
7 directly results in fewer riders. *See* Exhibit MD-1T, 3:18-5:16. LCRI's current schedule
8 fails to accommodate short trips and effectively prevents people from visiting Stehekin for
9 a weekend. I also believe that the public comments show that LCRI's failure to adequately
10 serve the public for so many years has artificially reduced the demand for LCRI's ferry
11 service. By providing a vessel that moves at a snail's pace and providing only limited
12 service days in the offseason, LCRI has driven away many potential customers and
13 discouraged many more from using the service unless absolutely necessary.

14 Finally, Mr. Dotson testified that the public comment submitted by LCRI's current
15 owner, Jack Raines, expressed concern with Backcountry's safety plan and lack of a
16 backup boat. Exhibit MD-1T, 7:11-17.¹ Despite Mr. Raines' concerns, Backcountry's
17 safety and contingency plans are more than adequate to ensure a safe and reliable daily
18 ferry service.
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24 ¹ With respect to the other public comments in opposition, specifically Backcountry's financial fitness and
25 the size of the market, I will not further address them in this section because we have already provided
evidence of financial fitness and market projections that were deemed acceptable by Commission Staff and
addressed above.

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2 **14. Q: How do you respond to the concern that not having a backup boat to**
3 **rescue your vessel in an emergency?**

4 **A:** Backcountry’s proposal is consistent with past precedent set by numerous
5 maritime and aviation operators in Stehekin and other remote communities. Backcountry’s
6 proposal is conceptually very similar to the float plane services that operated on Lake
7 Chelan, which were held to the high maintenance standards of the FAA, operated routinely
8 without vessels on standby, and rarely needed assistance. With regard to safety planning,
9 there are multiple emergency response options on Lake Chelan for vessels in distress.
10 Logan Courtney owns a boat that will be maintained and ready to go at all times, should
11 the passenger vessel need assistance. Chelan Assist is a private vessel assistance company
12 owned by a local resident who has years of experience on the lake, and is familiar with
13 local landmarks and the unique conditions that can affect boaters. The Chelan County
14 Sheriff’s Office and Chelan Fire District 7 both have boats on the lake for emergency
15 response and rescue. Finally, the National Park Service in Stehekin keeps a boat on the
16 water that has been used for emergency response as well. Should an emergency arise,
17 Backcountry has several resources at its disposal for assistance. Furthermore, Backcountry
18 is interested in pursuing a cooperative agreement with the Lake Chelan Boat Company
19 (LCBC) for safety purposes, with the goal that, should a vessel encounter distress, both
20 companies would seek to aid that vessel in every possible way, while still guaranteeing the
21 safety of all passengers.
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2 **15. Q: Please explain why you believe Backcountry’s proposed ferry service is**
3 **necessary and will benefit the public?**

4 **A:** In his testimony, Mr. Dotson stated that he believed the service Backcountry
5 applied for is necessary. Exhibit MD-1T, 8:1-3. I could not agree more. Backcountry seeks
6 to provide a service that is outside the current scope of the LCRI, whose large vessels are
7 appropriate and necessary for the high volume tourism of the summer months, but are
8 unable to maintain their financial feasibility while meeting the needs of the few during the
9 winter months. While our proposed service clearly needs the summer revenue to succeed,
10 our goal is transportation, not tourism. The fuel efficiency of the vessel, coupled with a
11 primary focus on meeting transportation needs, allows Backcountry to provide economical
12 and unprecedented service seven days per week all year.

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15 Over the last 25 years, the Chelan area has experienced immense growth but
16 Stehekin has declined in population and in tourism. I believe there is a direct connection
17 between the problems with the current ferry service’s amenities and schedule and the
18 decline of interest in Stehekin. I also believe that with increased services and availability,
19 ridership will increase significantly and breathe new life into Stehekin. Businesses in
20 Stehekin will seize the opportunity to expand their winter operations, resulting in more
21 passengers for both Backcountry and LCRI. Increased transportation services on Lake
22 Chelan can take what are currently lean months for one company and turn them into a
23 profitable season for everyone. This is truly an exciting time for Stehekin, the North
24 Cascades National Park, and the Lake Chelan community.

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DATED the 1st day of March, 2019.

JEFFERS, DANIELSON, SONN & AYLWARD, P.S.

By /s/ Matthew S. Hitchcock
JORDAN L. MILLER, WSBA # 38863
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Attorneys for Applicant Backcountry Travels, LLC

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CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury under the laws of the state of Washington, that on the 1st day of March, 2019, the foregoing was delivered to the following persons in the manner indicated:

Andrew Richards Hathaway Burden Garvey Schubert Barer, P.C. 1191 Second Avenue, Suite 1800 Seattle, WA 98101-2939	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery – Messenger Service <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: arichards@gsblaw.com hburden@gsblaw.com kmuellet@gsblaw.com
Jeff Roberson Harry Fukano Office of the Attorney General Utilities and Transportation Division 1400 S. Evergreen Park Drive SW P.O. Box 40128 Olympia, WA 98504-0128	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery – Messenger Service <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email : jeff.roberson@utc.wa.gov Harry.fukano@utc.wa.gov

/s/ Jerei Bargabus
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